

SENATE BILL 819
By Ford J

AN ACT to amend Tennessee Code Annotated, Title 63, relative to the licensure of surgical technologists.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 63, is amended by adding the following as a new chapter 31:

Section 63-31-101.

This act may be known and cited as the "Surgical Technologist Licensure Act".

Section 63-31-102.

As used in this chapter, unless the context otherwise requires:

(1) "Board" means the board of medical examiners, created by chapter 6 of this title;

(2) "Division" means the division of health related boards; and

(3) "Licensed surgical technologist" means a person licensed pursuant to this chapter.

Section 63-31-103.

A person is eligible to make application to the director of health related boards and receive a license if such person on the effective date of this act:

(1) Has at least three (3) years' clinical experience in a hospital, medical office, surgery center or school;

(2) Has current national certification in surgical technology approved by the director of health related boards; or

(3) Is graduated from a surgical technology program approved by the director of health related boards.

Section 63-31-104.

(a) A surgical technologist should be able to comprehend, assess, organize, and evaluate information obtained by understanding surgical procedures. A surgical technologist shall meet the educational requirements set by this chapter, function under the supervision of a surgeon, ensure an appropriate operating room environment, operate equipment safely and properly, and seek to maximize patient safety. A surgical technologist may also function as a technician in a surgeon's office.

(b) In order to be licensed as a surgical technologist, a person shall satisfactorily complete a twelve-month program in surgical technology at institutions approved by the director of health related boards. Such person shall obtain an appropriate national certificate, vocational school certificate or other certificate required by the director of health related boards.

(c) A surgical technology program shall address the performance of a surgical technologist in the following areas of curriculum:

(1) Orientation;

(2) Vocational relationship;

(3) Medical terminology;

- (4) Patient care concepts;
- (5) Related nursing skills;
- (6) Anatomy and physiology;
- (7) Microbiology;
- (8) Wound healing;
- (9) Pharmacology;
- (10) Anesthesia;
- (11) Asepsis and the surgical environment;
- (12) Fundamental techniques and procedure;
- (13) General surgical procedure;
- (14) Obstetrics procedure;
- (15) Gynecology procedure;
- (16) Ear, nose and throat procedure;
- (17) Maxillofacial procedure;
- (18) Orthopedic surgical procedure;
- (19) Neurosurgery procedure;
- (20) Cardio-peripheral vascular procedure;
- (21) Thoracic procedure;
- (22) Ophthalmic surgery;
- (23) Genito-urinary procedure;
- (24) Cystopic procedure;
- (25) Plastic surgery;
- (26) Reconstructive surgery; and
- (27) Employability skills.

Section 63-31-105.

(a) A candidate for a license to practice as a licensed surgical technologist shall submit an application accompanied by the required fees. The director of health related boards shall prescribe the form of the application and the dates by which applications and fees must be received.

(b) To qualify for the licensing examination, the applicant shall have successfully completed a surgical technology education program approved by the director of health related boards.

Section 63-31-106.

(a) Except as otherwise provided in this chapter, to qualify for a license, an applicant shall pass a competency examination. The examination shall be prepared or approved by the director of health related boards and administered to qualified applicants at least once each calendar year. The examination prescribed by the director of health related boards may be or may include the complete examinations given by the Surgical Technologists Association or its successor organization.

(b) Not later than forty-five (45) days after the date on which a licensing examination is administered, the division shall notify each examinee of the results of the examination.

(c) The director of health related boards shall establish:

- (1) A limit on the number of times an applicant who fails an examination may retake the examination;
- (2) The requirements for reexamination; and
- (3) The amount of any reexamination fee.

Section 63-31-107.

(a) A license to practice surgical technology is valid for two (2) years. The director of health related boards may provide that licenses expire on various

dates. A person may renew an unexpired license by submitting proof of compliance with the continuing professional education requirements prescribed by the director of health related boards and paying the required renewal fee to the director of health related boards before the expiration date of the license.

(b) If a person's license has been expired for not more than two (2) years, the person may renew the license by submitting proof, satisfactory to the director of health related boards, of compliance with the continuing professional education requirements prescribed by the director of health related boards and any penalty fee prescribed by the director of health related boards.

(c) If a person's license has been expired two (2) years or more, the person may not renew the license. The person may obtain a new license by submitting to reexamination and complying with the current requirements and procedures for obtaining a license.

(d) The director of health related boards may renew without reexamination an expired license of a person who was licensed in this state, moved to another state, and is currently licensed or certified and has been in practice in another state for two (2) years immediately preceding the person's application to renew a license. The person shall pay the required fee as established by the director of health related boards. The director of health related boards shall not renew an expired license pursuant to this subsection if such expired license is subject to a penalty or restriction in another state.

(e) The director of health related boards shall notify each license holder in writing of the license expiration date more than thirty (30) days before such date by notice to the license holder at the license holder's last known address according to the records of the director of health related boards.

Section 63-31-108.

On receipt of an application and application fee, the director of health related boards may waive the examination and educational requirements for an applicant who at the time of application is appropriately licensed or certified by another state, territory or possession whose requirements for the license or certificate are substantially equivalent to the requirements of this chapter, and such applicant is not under any restriction or encumbrance imposed by such state.

Section 63-31-109.

(a) A person may not engage in or offer to engage in the practice of surgical technology for compensation or use the title or represent or imply that the person has the title of licensed surgical technologist or use the letters "LST" or "LORT" [Licensed Operating Room Technician] and may not use any facsimile of such titles in any manner to indicate or imply that the person is a licensed surgical technologist unless the person holds an appropriate license issued pursuant to this chapter.

(b) Any person who violates the provisions of subsection (a) commits a Class B misdemeanor.

Section 63-31-110.

The provisions of this chapter shall not apply to:

(1) A person licensed as a health care professional in this state if:

(A) The person does not represent to the public, directly or indirectly, that the person is licensed pursuant to this chapter, and does not use any name, title or designation indicating that the person is licensed pursuant to this chapter; and

(B) The person limits the person's acts or practice to the scope of practice authorized by the appropriate licensing agency; or

(2) A student enrolled in an accredited surgical technologist education program if the services performed are:

(A) An integral part of the student's course of study; and

(B) Performed under the direct supervision of a licensed surgical technologist assigned to supervise the student and who is on duty and immediately available in the assigned patient care area; or

(3) The practice of any legally qualified surgical technologist employed by the United States government while in the discharge of the person's official duties.

Section 63-31-111.

(a) To assist the board of medical examiners in the performance of its duties, there is hereby established the director of health related boards for surgical technologists. The director of health related boards shall approve the examination required by this chapter. The chair of the director of health related boards shall be a surgical technologist.

(b) The director of health related boards shall consist of four (4) surgical technologist members: one (1) hospital administrator from a licensed health care facility in Tennessee in which surgery is performed; one (1) licensed physician; and one (1) public member. The public member shall be a resident of Tennessee for one (1) year and shall be a registered voter. Members shall be appointed by the governor upon recommendation by the director of health related boards. The members of the director of health related boards shall be appointed for terms of six (6) years, except those first appointed, of whom one (1) shall be appointed for a term of one (1) year, one (1) shall be appointed for a term of two (2) years, two (2) shall be appointed for a term of three (3) years, one (1) shall be appointed for a term of four (4) years, one (1) shall be appointed for a term of five (5) years and

one (1) shall be appointed for a term of six (6) years. The surgical technologist director of health related boards members shall be residents of the state of Tennessee for at least one (1) year, shall be United States citizens and shall meet all the requirements for licensing provided in this chapter. In making appointments to the director of health related boards, the governor shall ensure that the director of health related boards is representative of the environments in which surgical technologists practice. In making appointments to the director of health related boards, the governor shall strive to ensure that at least one (1) person serving on the director of health related boards is sixty (60) years of age or older and that at least one (1) person serving on the director of health related boards is a member of a racial minority. Of the total membership of the director of health related boards, no less than two (2) members shall be from each grand division of the state. In making the initial appointments to the director of health related boards, the surgical technologist members shall not be required to be licensed but shall apply for a license from the director of health related boards within ninety (90) days of the issuance of licenses by the director of health related boards.

(c) If a member of the director of health related boards shall, during the member's term as a director of health related boards member, remove the member's domicile from the state of Tennessee, then the director of health related boards shall immediately notify the governor and the seat of that director of health related boards member shall be declared vacant. All such vacancies shall be filled by appointment in the same manner as the preceding appointment.

(d) No member of the director of health related boards shall be entitled to any compensation for the performance of the member's official duties but shall receive compensation for travel expenses pursuant to the comprehensive travel

regulations promulgated by the department of finance and administration and approved by the attorney general and reporter.

(e) A member of the director of health related boards may be removed by the governor, if the member:

(1) Does not have, at the time of appointment, the qualifications required for appointment to the director of health related boards;

(2) Does not maintain during service on the director of health related boards the qualifications required for appointment to the director of health related boards;

(3) Violates any provision of this chapter;

(4) Cannot discharge the member's duties for a substantial part of the term for which the member is appointed because of illness or disability; or

(5) Is absent from more than one half (1/2) of the regularly scheduled director of health related boards meetings that the member is eligible to attend during a calendar year, unless the absence is excused by a majority vote of the director of health related boards.

Section 63-31-112.

Not later than thirty (30) days after the governor appoints the initial members of the director of health related boards and annually thereafter, the director of health related boards shall meet and elect one (1) of its members as chair and one (1) of its members as vice chair. The director of health related boards shall meet at least quarterly or at any other time if called by the chair or a majority of the director of health related boards. A majority of the members of the director of health related boards shall constitute a quorum.

Section 63-31-113.

(a) The director of health related boards shall:

- (1) Adopt and publish a code of ethics;
- (2) Establish the qualifications and fitness of applicants for licenses, renewal of licenses and reciprocal licenses;
- (3) Establish the grounds for revocation, suspension, or denial of a license;
- (4) Establish the grounds for placing on probation a holder of a license;
- (5) Establish the categories of fees and the amount of fees that may be imposed in connection with a license;
- (6) Establish continuing professional education requirements for licensed surgical technologists; and
- (7) Assist in such matters dealing with surgical technology as the board may, in its discretion, direct.

(b) Any actions taken under this section shall only be effective after adoption by a majority vote of the members of the director of health related boards. The board of medical examiners, by a majority vote of its members at the next board meeting at which administrative matters are considered, may rescind or supersede any action taken by the director of health related boards.

Section 63-31-114.

(a) The director of health related boards shall keep an information file about each complaint filed with the director of health related boards. The director of health related board's information file shall be kept current and contain a record for each complaint of:

- (1) All persons contacted in relation to the complaint;
- (2) A summary of findings made at each step of the complaint process;
- (3) An explanation of the legal basis and reason for a complaint that is dismissed; and

(4) Other relevant information.

(b) If a written complaint is filed with the director of health related boards that the director of health related boards has authority to resolve, the director of health related boards at least as frequently as quarterly and until final disposition of the complaint shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an ongoing investigation.

(c) The director of health related boards shall develop a form to standardize information concerning complaints made to the director of health related boards. The director of health related boards shall prescribe information to be provided to a person when the person files a complaint with the director of health related boards.

(d) The director of health related boards shall provide reasonable assistance to a person who wishes to file a complaint with the director of health related boards.

Section 63-31-115.

(a) The director of health related boards shall promulgate rules pursuant to the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5, concerning the investigation of a complaint filed with the director of health related boards. The rules adopted pursuant to this section shall:

(1) Distinguish between categories of complaints;

(2) Ensure that complaints are not dismissed without appropriate consideration;

(3) Require that the board be advised of a complaint that is dismissed and that a letter be sent to the person who filed the complaint explaining the action taken on the dismissed complaint;

(4) Ensure that the person who filed the complaint has an opportunity to explain the allegations made in the complaint; and

(5) Prescribe guidelines concerning the categories of complaints that require the use of a private investigator and the procedures for the director of health related boards to obtain the services of a private investigator.

(b) The director of health related boards shall dispose of all complaints in a timely manner.

Section 63-31-116.

The director of health related boards shall revoke or suspend a license, place on probation a person whose license has been suspended, or reprimand a license holder if there is proof of:

(1) Any violation of the provisions of this chapter;

(2) Any violation of a rule or code of ethics adopted by the director of health related boards; or

(3) Unprofessional conduct, which includes, but is not limited to:

(A) Incompetence or gross negligence in carrying out usual surgical technology functions;

(B) A conviction of practicing surgical technology without a license;

(C) The use of advertising relating to surgical technology in a way that violates state law;

(D) Procuring a license by fraud, misrepresentation or mistake;

(E) Making or giving any false statement or information in connection with the application for a license;

(F) Conviction of a felony or of any offense substantially related to the qualifications, functions and duties of a surgical technologist, in which event the record of the conviction shall be conclusive evidence of such offense; or

(G) Impersonating an applicant or acting as proxy for an applicant in any examination required pursuant to this chapter for the issuance of a license.

Section 63-31-117.

The director of health related boards may promulgate administrative rules pursuant to the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5, to administer the provisions of this chapter.

Section 63-31-118.

The provisions of this act shall not apply to surgical technologists employed in hospitals without an operating room suite.

SECTION 2. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 3. This act shall take effect July 1, 2003, the public welfare requiring it.